

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 14

DURHAM SCHOOL SERVICES, LP

Employer¹

and

Case 14-RC-12604

INTERNATIONAL BROTHERHOOD OF
TEAMSTERS, MISCELLANEOUS DRIVERS,
HELPERS, HEALTHCARE AND PUBLIC
EMPLOYEES, LOCAL NO. 610

Petitioner²

**REGIONAL DIRECTOR'S DECISION AND
DIRECTION OF ELECTION**

The Employer, Durham School Services, LP, is engaged in providing school bus transportation services at various locations throughout the United States, including two locations in the St. Louis, Missouri metropolitan area. The Petitioner, International Brotherhood of Teamsters, Miscellaneous Drivers, Helpers, Healthcare and Public Employees Local No. 610, filed a petition to represent employees at one St. Louis location with the National Labor Relations Board under Section 9(c) of the National Labor Relations Act. Laborers' International Union of North America, Local Union No. 509 moved for and was granted intervenor status at hearing. A hearing officer of the Board held a hearing and the Employer and Petitioner filed briefs.

The Employer and Petitioner disagree on whether the single-facility unit sought by the Petitioner is appropriate. The Petitioner seeks to represent all full-time and part-time school bus drivers and monitors employed at the Employer's 6121 Hall Street, St. Louis, Missouri

¹ The Employer's name appears as amended at hearing.

² The Petitioner's name appears as amended at hearing.

facility (here Hall Street facility). The Employer contends that the only appropriate bargaining unit is a multi-facility unit that includes the Hall Street facility and its facility located at 3350 Morgan Ford, St. Louis, Missouri (here Morgan Ford facility). I have considered the evidence and arguments presented by the parties on this issue, and I find that the single-facility unit is appropriate.

I. OVERVIEW OF OPERATIONS

The Employer operates school buses in at least 21 states. Facilities in the St. Louis metropolitan area include the Hall Street facility and the Morgan Ford facility. The Employer also operates facilities in Belleville, Illinois and Wright City, Missouri, which are not at issue.

The Employer's corporate offices are located in Austin, Texas. A senior vice president is in charge of the eastern region of the United States. A regional vice president, who is located in Chicago and reports to the senior vice president of the eastern region, is in charge of the north central region, which includes five states including Missouri. A general manager, who reports to the regional vice president, manages the Hall Street and Morgan Ford facilities. In turn, each facility has a location manager, also referred to as operations supervisor, who reports to the general manager, and two dispatchers, who report to the location manager.³

The Hall Street and Morgan Ford facilities provide bus transportation services for students, including those enrolled in the Voluntary Interdistrict Choice Corporation (VIC), formerly known as the desegregation program. VIC students are transported between their residences in the City of St. Louis and their schools in St. Louis County. The Employer has about 168 VIC routes, but VIC limits a location to 125 routes, so the Hall Street facility opened in August 2005. The Hall street facility services 122 VIC routes. The Morgan Ford facility services about 46 VIC routes, as well as 14 routes for Gateway State School, and 7 routes for St. Louis Charter Academy.

Drivers work their assigned routes. The monitors ride on the buses to assist the drivers with special need students and issues such as student discipline. The Hall Street facility employs about 140 drivers and monitors, and the Morgan Ford facility employs about 90 drivers and monitors.

II. SCOPE OF UNIT

A single facility unit is presumptively appropriate unless it has been so effectively merged into a more comprehensive unit, or is so functionally integrated, that it has lost its separate identity. *New Britain Transportation Co.*, 330 NLRB 397 (1999), citing *J&L Plate, Inc.*, 310 NLRB 429 (1993). The party opposing the single facility presumption has the burden of presenting sufficient evidence to rebut it. *Id.* at 398. To determine whether the presumption has been rebutted, the Board considers the following factors: (1) centralized control over daily operations and labor relations, including the extent of local autonomy; (2) similarity of skills, functions, and working conditions; (3) degree of employee interchange; (4) geographic proximity; and (5) bargaining history, if any. *Id.* at 397.

III. DISCUSSION AND ANALYSIS

A. Centralized Control over Daily Operations and Labor Relations

The general manager has overall responsibility for the Hall Street and Morgan Ford facilities, including daily operations, finance, human resources, maintenance, and safety and training. In turn, each facility has its own location manager and two dispatchers. The location managers are responsible for overseeing the daily operations, dispatching of buses, daily financial information, and processing payroll information at their respective locations. The location managers make schedules and route assignments and distribute pay checks to the employees at their facilities. The dispatchers are responsible for dispatching and

³ The parties stipulated that the locations managers and dispatchers are supervisors within the meaning of Section 2(11) of the Act.

communicating with the drivers and monitors by radios set to facility-specific channels during their routes.

The general manager testified that the location managers effectively recommend discipline for employees at their facilities. The location managers can give verbal and written warnings. The record is silent as to any review by the general manager of such disciplinary actions. The location managers can place employees on disciplinary administrative leave pending investigation without the permission of the general manager, but the general manager subsequently determines the length of the leave and whether the employee receives pay for the administrative leave after completion of the investigation based on information provided by the location manager. In addition, location managers contact the general manager with problems with drivers and monitors and what actions to take, such as a driver giving an explicit DVD to a student.

An employee calls his or her dispatcher or location manager to report an absence. The location managers and dispatchers grant time off and unexcused absences, such as leaving for a doctor's appointment or calling in sick, without consulting with the general manager. Extended leaves for 30 days or longer must be approved by the general manager.

Dispatchers are regularly assigned to a single facility. On occasion, a dispatcher may work at the other facility. For example, during 2005, a Morgan Ford dispatcher was assigned to the Hall Street facility for approximately 4 hours per day during the first 2 months of the Hall Street facility's operation, then as needed once every "couple of weeks." No Hall Street facility dispatcher has worked at the Morgan Ford facility and, in the 3½ months before hearing, only one Morgan Ford dispatcher worked at the Hall Street facility for approximately 2 to 3 hours. Dispatchers communicate with dispatchers at the other facility about once per week.

Drivers contact their dispatcher when they encounter any difficulties during their route. In addition to addressing employee problems, the dispatcher is usually the first contact for

complaints or grievances from customers, parents, or employees. If a party is not satisfied with a dispatcher's resolution, the matter goes to the location manager and, if not resolved, to the general manager, who makes the final decision.

The location manager at the hiring facility and safety and training supervisor interview applicants and make recommendations regarding hiring. In July and August 2005, before the opening of the Hall Street facility, interviewing for drivers and monitors was done at the Morgan Ford facility. With the opening of the Hall Street facility, interviewing was done at each location. Beginning in February 2006, interviewing for drivers and monitors has been conducted at the Hall Street facility. The general manager makes the decision to hire based on the application and recommendation of the location manager and safety and training supervisor. The general manager views new hire paperwork and signs off that each hire meets the job qualifications. Both facilities use the same employee action forms for hire, wage or job class change, separation, and other actions such as direct deposition or address change. The general manager also verifies documentation to support each termination. For example, when a location manager found an employee exceeded the limit on the number of acceptable absences, the location manager submitted the necessary paperwork to the general manager, who agreed with the location manager that the employee should be terminated. The general manager also can promote employees at both locations and promoted the two location managers to their positions, but has not yet promoted any drivers or monitors as none have applied for a promotion. The general manager is the only person who can approve or deny the permanent transfer of a driver or monitor.

Employee orientation is held separately at each facility. During orientation, employees are given the Employee Handbook, which was developed by the corporate office and covers all drivers and monitors and other employees employed by Employer in the United States. While each location may choose to have its own local handbook, the Hall Street and Morgan Ford

facilities do not have a local handbook. According to the Employee Handbook, the employee's supervisor assesses whether the new employee will be an adequate employee. This assessment includes determination of the new hire's ability to get along with others, punctuality and attendance, and other indicators of job success. The Employer Handbook directs employees to contact their supervisors for work-related questions and problems, but if the employee cannot discuss the matter with the supervisor or manager the employee may contact the regional vice president. The Handbook also includes seniority policies. An employee who transfers to another location will retain his or her seniority status at the previous location for the purpose of wages and benefits; however, seniority will not carry over for route selection.

Employee wage rates and benefits, including bonuses, health insurance, dental and vision insurance, 401(k), and holidays, are the same for both facilities. Based on a budget written the year before, the general manager calculates and recommends the local wage rates to the regional vice president, who approves the general manager's proposal.

The general manager works at the Hall Street facility each day because it is a larger facility and closer to her home, but divides her work time 60-40 between matters involving the Hall Street and Morgan Ford facilities. In addition, she has daily interaction with the Morgan Ford facility's location manager by phone, e-mails, and mail, and tries to be at the Morgan Ford facility on a weekly basis. The general manager also sends written communications to employees at either or both locations. The record reflects one example where the general manager sent a January 11, 2006 memo to both facilities announcing new hires and transfers. The record further reflects that employee meetings are conducted at their respective facilities with or without the general manager's presence.

In sum, the record establishes that the location managers and dispatchers exert a significant role in daily operations. They determine employee schedules and routes, and temporary transfers. They handle problems encountered by drivers during their routes and are

the first point of contact for resolving employee grievances. They grant time off. They issue warnings, effectively recommend discipline, and, without prior permission of the general manager, can place employees on administrative leave pending investigation. The location managers, in conjunction with the safety and training supervisor, interview new employees and recommend hiring decisions; and the general manager simply verifies that each hire meets the Employer's hiring criteria. Each location conducts its own orientation, training, and employee meetings. While some functions are centralized, such as processing payroll submitted by the location managers, wages and benefits, employee handbook and work rules, the evidence demonstrates significant local autonomy over labor relations where the location managers and dispatchers manage most of the daily operations involving the drivers and monitors, including scheduling, dispatching, recommending hire, verbal and written warnings, and time off. *New Britain Transportation*, 330 NLRB at 397-398. See also *Cargill, Inc.*, 336 NLRB 1114 (2001) (supervisors at each facility had significant local autonomy by making assignments, supervising work, imposing discipline, handling initial employee complaints, and scheduling vacations).

In support of its contention that the control of labor relations is completely centralized, the Employer cites *Dattco, Inc.*, 338 NLRB 49 (2002), which case is distinguishable. In *Dattco*, the respondent operated nine terminals in eight cities and had separate headquarters. In *Dattco*, unlike the case here, all bus routes were coordinated by computer at headquarters, and the staffing needs for the routes were reported twice a day to and coordinated by headquarters. Hiring, written discipline and suspension, and termination decisions were made at headquarters. Time off was granted by managers at headquarters. As a result, I find *Dattco* inapposite to the facts in this case where the location managers and dispatchers exert significant control over daily operations and labor relations.

B. Similarly of Skills, Functions, and Working Conditions

Both facilities employ the same job classifications of drivers and monitors and the same job qualifications and responsibilities. The drivers and monitors at both facilities work a.m. and p.m. shifts, each of which lasts about 2 hours. The employees at both locations have the same wage and benefits plan and are subject to the same employee handbook and work rules. Employees at both the Hall Street and Morgan Ford facility are subject to the same dress code.

The Hall Street facility services 122 routes, all of which are for VIC, and has approximately 140 buses assigned to that facility. Hall Street does not have a regular charter service. In about February 2006, a school district used a bus for parent-teacher conferences; and, beginning in April 2006, two buses have been used to operate a shuttle service for the Museum of Transportation on Saturday and Sunday.

The Morgan Ford facility services 46 VIC routes, 14 Gateway, and 7 Academy routes, and has 74 buses assigned to that facility. In addition to their regularly assigned routes, the Morgan Ford drivers and monitors also work after-school activities in the Mehlville, Lindbergh, and Afton school districts. The Mehlville routes alone account for 15 extra routes per week. In addition to these extra routes and pay, the Morgan Ford drivers have the opportunity to drive 25 to 30 charters per week for specific events. The Hall Street drivers cannot bid to drive the Morgan Ford charter routes.

Both facilities maintain their own seniority list. While an employee who transfers from one facility to another maintains his or her seniority with respect to wages and benefits, both facilities maintain their own seniority list and seniority does not carry over for route selection.

In these circumstances, while the record demonstrates similarity of skills and functions of the employees at both facilities, it also demonstrates certain dissimilar working conditions. The Hall Street facility employees work only on VIC routes and have limited opportunities to work charters. The Morgan Ford employees work different VIC, Gateway, and Charter routes,

and have the opportunity to work after-school and charters routes not available to the Hall Street employees. Each facility has its own seniority list, which drivers use to bid routes only at their facility. Accordingly, I find that the similarities in employee skills and functions do not outweigh the different working conditions. *D&L Transportation*, 324 NLRB 160, 161-162 (1977).

C. Interchange of Employees

The Hall Street facility has 14 spare drivers while the Morgan Ford facility has 7 spares. These drivers fill in on routes as needed at their assigned facility. In addition, a dispatcher may request that employees temporarily transfer between the facilities to cover routes for absent employees. The Employer provided a sampling of Hall Street facility dispatch sheets for 11 days during the period from January 19, 2006 through March 14, 2006, which indicates about 21 instances out of at least 750 shifts⁴ where Morgan Ford employees substituted on Hall Street routes. The Employer did not present any dispatch sheets from the Morgan Ford facility.

When Morgan Ford drivers substitute on Hall Street routes, the Hall Street dispatcher cannot directly contact the Morgan Ford drivers for reassignments, rather contacts the Morgan Ford dispatcher to effect the temporary transfer. The Morgan Ford drivers then receive their assignments from the Morgan Ford dispatcher and are instructed to switch their radio channel to maintain contact with the facility they are servicing. The general manager testified that the Morgan Ford facility would similarly follow this same procedure to utilize Hall Street employees.

The general manager estimated that an average of 3 to 5 percent of the 90 Morgan Ford drivers and monitors would be sent to the Hall Street facility and 1 percent of the 140 Hall Street facility drivers and monitors would be sent to Morgan Ford facility weekly. However, the general manager included in this estimate the employees who performed the daily interoffice mail shuttle between Hall Street and Morgan Ford. In addition, the record is silent as to the duration

⁴ The general manager testified that the number of routes would be 122 routes multiplied by the number of days sampled, which in this case is 11 days, for about 1,342 routes.

and types of contacts made with any employee other than the dispatcher when making the mail deliveries or substituting for absent employees.

With respect to permanent transfers, in August 2005, when the Hall Street facility commenced operations, six drivers and a monitor voluntarily transferred from the Morgan Ford facility to the Hall Street facility. The record does not reflect any non-voluntary permanent transfers, nor does it reflect voluntary transfers after the initial Hall Street startup. The record also does not provide any examples of Hall Street employees requesting transfer to the Morgan Ford facility. Drivers at each facility bid on their routes at the beginning of each year based on their facility seniority. The drivers and monitors cannot bid on a route at the other facility unless the driver requests a transfer to that facility.

Each facility regularly holds separate orientation, safety and other training, and employee meetings for their respective employees.⁵ In addition, the safety and training supervisor, whose office is at Hall Street, provides training for employees at their respective facilities. However, both facilities were invited to a joint Christmas party at Hall Street and a joint party is planned for the end of the school year.

In these circumstances, there is a lack of significant interchange between the two facilities. Assuming there were 21 temporary transfers from Morgan Ford to the Hall Street facility in about 2 months for 750 shifts, this is less than 3 percent interchange rate. Even crediting other record evidence, at most, 3 to 5 percent of employees at Morgan Ford temporarily cover Hall Street routes, and 1 percent of Hall Street employees substitute for Morgan Ford employees weekly. This does not approach the degree of interchange typically present in cases where the Board has found it to be significant. *D&L Transportation*, 324 NLRB

⁵ Currently the Morgan Ford trainer is on maternity leave, which has resulted in training for Morgan Ford employees at the Hall Street facility.

at 161 (percentage of interchange was less than 8 percent); compare *Dayton Transport Corp.*, 270 NLRB 1114 (1984) (Board found the presumption rebutted where in past 12 months there were approximately 400-425 temporary interchanges between terminals in a workforce of 87); *Purolator Courier Corp.*, 265 NLRB 659, 661 (1982) (interchange factor met where 50 percent of the employees were involved in transfer work and had frequent contact).

In addition, the estimate of weekly interchange included the interoffice mail shuttle. As with the employees allegedly interchanged to cover routes, there is no record evidence regarding the contacts made or how long each employee spends at the other facility performing this service. This type of pick-up and drop-off service is not considered a temporary transfer and therefore does not support a finding of interchange. *Dunbar Armoured, Inc. v. NLRB*, 186 F.3d 844, 849-850 (7th Cir. 1999).

The Employer presented evidence of only seven permanent transfers, all of which were voluntary. Voluntary transfers are given less weight in determining if employees from different locations share a common identity. *New Britain Transportation*, 330 NLRB at 398; *D&L Transportation*, 324 NLRB at 162 fn. 7. Further, the employees from one facility are not permitted to bid on routes at the other facility, which indicates a lack of interchange. *Cargill, Inc.*, 336 NLRB at 1114.

Interchange and contacts among employees are further limited as orientation, subsequent training, and employee meetings are held at the individual facilities. Although employees from the two facilities shared a joint Christmas party and will share an end-of-the year party, these types of activities are too removed from the core terms and conditions of employment to carry any weight. *O'Brien Memorial Hospital, Inc.*, 308 NLRB 553 (1992). Thus, I find that there is insignificant interchange between the Hall Street and Morgan Ford facilities.

D. Geographic Proximity

The Hall Street and Morgan Ford facilities are located approximately 11 miles apart. In *D&L Transportation*, 324 NLRB at 160, the Board determined that a single unit facility was appropriate when bus terminals were located between 3 and 29 miles apart. Similarly, in *New Britain Transportation*, 330 NLRB at 397, the Board determined that the single unit facility was not rebutted where there was a geographic separation of 6 and 12 miles among 3 facilities involving public bus and school transportation. See also *Cargill, Inc.*, 336 NLRB at 1114 (grain elevators were 2 miles apart).

To support the proposition that 11 miles is not a significant distance, the Employer argues that the Board accepted a 108-mile geographic separation to rebut the single facility presumption in *Trane*, 339 NLRB 866 (2003). However, in that case, the Board stated that though it usually would consider such a distance significant, the significance was reduced by the fact that the employees were dispatched from their homes, only occasionally went to their respective offices, and evidence of regular interchange between the two sites. *Id.* at 867. In the present situation, the employees are dispatched from their respective facilities, to which they report daily, and there is insignificant interchange.

E. History of Collective Bargaining

There is no history of collective at the Hall Street facility or at the Morgan Ford Street facility. The Petitioner represented the drivers and monitors at the Employer's Michigan Street facility in the City of St. Louis, but that facility lost its contract with the City of St. Louis Public School, and closed in June 2004. At the time the Petitioner represented employees at the Michigan Street facility, the Morgan Ford facility was providing services to VIC. Both the Michigan Street facility and Morgan Ford facility employed drivers and monitors who had the same wages and benefits.

The fact relevant to the analysis is that there is no bargaining history at either of the facilities involved. *Cargill, Inc.*, 336 NLRB at 1114. Accordingly, where neither of the facilities in question has a history of collective bargaining, the evidence is insufficient to rebut the single facility presumption.

F. Summary

The analysis of the five relevant factors indicates that the Hall Street and Morgan Ford facilities have separate control over daily operations and labor relations, dissimilarities in working conditions, insignificant interchange, geographic separation, and no bargaining history at either facility. The Board considers the degree of interchange and separate supervision to be of particular importance in determining whether the single facility presumption has been rebutted. *Mercy Medical Center San Juan*, 344 NLRB No. 93, slip op. at 1 (2005). Despite some similarity of skills, the employees are subjected to direct supervision by a local manager, which supports a finding of a single unit facility. *Foodland of Ravenswood*, 323 NLRB 665, 667 (1997), citing *Red Lobster*, 300 NLRB 908 (1990). As noted above, the evidence regarding interchange indicates little significant contact between employees at the Hall Street and Morgan Ford facilities. Dissimilarities in working conditions and geographic separation also favor the single facility presumption, and there is no bargaining history at the two facilities. Thus, the evidence presented does not establish that the Hall Street facility has been “so effectively merged in a more comprehensive unit, or is so functionally integrated, that it has lost its separate identity.” *D&L Transportation*, 324 NLRB at 162. Accordingly, I find that the Employer has not rebutted the single facility presumption.

IV. CONCLUSIONS AND FINDINGS

Based upon the entire record in this proceeding and in accordance with the discussion above, I conclude and find as follows:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

2. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction in this case.⁶

3. The Petitioner and Intervenor claim to represent certain employees of the Employer.

4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

5. The following employees of the Employer constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time drivers⁷ and monitors employed by the Employer at its 6121 Hall Street, St. Louis, Missouri facility, excluding maintenance employees, dispatchers, safety trainers, office clerical and professional employees, guards, and supervisors⁸ as defined in the Act.

⁶ The parties stipulated that during the past twelve month, which period is representative of its operations, the Employer derived gross revenues in excess of \$250,000 from the operation of its school bus transportation services where such services were provided directly to customers located in the State of Missouri and each of which customers, in turn, meets other than a solely indirect standard for the assertion of the Board's jurisdiction.

⁷ The parties agree that Anthony Robinson is a spare driver and behind-the-wheel trainer and is appropriately included in the unit. The record establishes that he spends about 99 percent of his time driving and 1 percent training, and that he does not have the authority to hire, fire, discipline, or recommend such actions, reward, or assign or direct the work of other employees. Accordingly, and in agreement with the parties, I find that the spare driver and behind-the-wheel trainer is appropriately included in the unit.

⁸ The parties stipulated that the following persons employed at the Hall Street facility exercise the authority to discipline and/or effectively recommend discipline and therefore are supervisors as defined by Section 2(11) of the Act: John Jones, Jeanette Cole, Norquise Cooper, Winnie Berry, Michael Ray, Cindy Roe, Jim Koons, Aimee Sides and Vincent McCorkle. Accordingly, and in agreement with parties, I find these individuals are appropriately excluded from the unit.

V. DIRECTION OF ELECTION

The National Labor Relations Board will conduct a secret ballot election among the employees in the unit found appropriate above. The employees will vote whether or not they wish to be represented for the purposes of collective bargaining by International Brotherhood of Teamsters, Miscellaneous Drivers, Helpers, Healthcare and Public Employees, Local Union No. 610, Laborers' International Union of North America, Local Union No. 509, or neither. The date, time, and place of the election will be specified in the notice of election that the Board's Regional Office will issue subsequent to this Decision.

A. Voting Eligibility

Eligible to vote are those in the unit who were employed during the payroll period ending immediately preceding the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Employees engaged in any economic strike, who have retained their status as strikers and who have not been permanently replaced, are also eligible to vote. In addition, in an economic strike, which commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers, but who have been permanently replaced, as well as their replacements, are eligible to vote. Those in the military service of the United States may vote if they appear in person at the polls.

Ineligible to vote are: (1) employees who have quit or been discharged for cause since the designated payroll period; (2) striking employees who have been discharged for cause since the strike began and who have not been rehired or reinstated before the election date; and (3) employees engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced.

B. Employer to Submit List of Eligible Voters

To ensure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses, which may be used to communicate with them. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *NLRB v. Wyman-Gordon Company*, 394 U.S. 759 (1969).

Accordingly, it is hereby directed that within 7 days of the date of this Decision, the Employer must submit to the Regional Office an election eligibility list, containing the full names and addresses of all the eligible voters. *North Macon Health Care Facility*, 315 NLRB 359, 361 (1994). This list must be of sufficiently large type to be clearly legible. To speed both preliminary checking and the voting process, the names on the list should be alphabetized (overall or by department, etc.). Upon receipt of the list, I will make it available to all parties to the election.

To be timely filed, the list must be received in the Regional Office, 1222 Spruce Street, Room 8.302, St. Louis, MO 63103, on or before **May 4, 2006**. No extension of time to file this list will be granted except in extraordinary circumstances, nor will the filing of a request for review affect the requirement to file this list. Failure to comply with this requirement will be grounds for setting aside the election whenever proper objections are filed. The list may be submitted by facsimile transmission at (314) 539-7794 or by electronic mail at Region14@nrlb.gov. Since the list will be made available to all parties to the election, please furnish a total of **two** copies, unless the list is submitted by facsimile or electronic mail, in which case no copies need be submitted. If you have any questions, please contact the Regional Office.

C. Notice of Posting Obligations

According to Section 103.20 of the Board's Rules and Regulations, the Employer must post the Notices of Election provided by the Board in areas conspicuous to potential voters for a minimum of 3 days prior to the date of the election. Failure to follow the posting requirement may result in additional litigation if proper objections to the election are filed. Section 103.20(c) requires an employer to notify the Board at least 5 full working days prior to 12:01 a.m. of the day of the election if it has not received copies of the election notice. *Club Demonstration Services*, 317 NLRB 349 (1995). Failure to do so estops employers from filing objections based on nonposting of the election notice.

V. RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, D.C. 20570-0001. This request must be received by the Board in Washington by 5 p.m. EDT on **May 11, 2006**. This request may not be filed by facsimile.

Dated: April 27, 2006
at: Saint Louis, Missouri

/s/[Ralph R. Treman]
Ralph R. Tremain, Regional Director
National Labor Relations Board, Region 14